~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 25, 2015

**H. 3433**

Introduced by Reps. Erickson, Weeks, Cobb‑Hunter, McCoy, Douglas, Kennedy, Long, Lucas, M.S. McLeod, Ridgeway, Tallon, Thayer, Felder, Pope, J.E. Smith, King, Howard, Parks, Ott, Jefferson, Bernstein, Rivers, Southard, Tinkler, Henegan, Kirby, Bales, Neal, Henderson, Herbkersman, Merrill, G.R. Smith, Bradley, Bannister, H.A. Crawford, Newton, Clemmons, Nanney, Wells, Quinn, Whitmire, Bingham, Stringer, Atwater, Hicks, Mitchell, Funderburk and Norrell

S. Printed 3/25/15--H.

Read the first time January 27, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3433) to amend the Code of Laws of South Carolina, 1976, so as to enact the “Domestic Violence Reform Act”; to amend Section 16‑25‑10, as amended, relating to definitions, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ PART I

Citation

SECTION 1. This act may be cited as the “Domestic Violence Reform Act”.

Part II

Domestic Violence Penalties

SECTION 2. Section 16‑25‑10 of the 1976 Code, as last amended by Act 166 of 2005, is further amended to read:

“Section 16‑25‑10. As used in this article, the term:

(1) ‘Deadly weapon’ means any pistol, dirk, slingshot, metal knuckles, razor, or other instrument which can be used to inflict deadly force.

(2) ‘Great bodily injury’ means an injury as defined in Section 16‑3‑600(A)(1).

(3) ‘Household member’ means:

~~(1)~~(a) a spouse;

~~(2)~~(b) a former spouse;

~~(3)~~(c) persons who have a child in common; or

~~(4)~~(d) a male and female who are cohabiting or formerly have cohabited.

(4) ‘Moderate bodily injury’ means an injury as defined in Section 16‑3‑600(A)(2).

(5) ‘Prior conviction of domestic violence’ includes conviction of any crime, in any state, containing among its elements those enumerated in, or substantially similar to those enumerated in, Section 16‑25‑20(A) that is committed against a household member as defined in item (3) within the ten years prior to the incident date of the current offense*.*

(6) ‘Protection order’ means any order of protection, restraining order, condition of bond, or any other similar order issued in this State or another state or foreign jurisdiction for the purpose of protecting a household member.

(7) ‘Firearm’ means a pistol, revolver, rifle, shotgun, machine gun, submachine gun, or an assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive but does not include an antique firearm as defined in 18 U.S.C. 921(a)(16).”

SECTION 3. Section 16‑25‑20 of the 1976 Code, as last amended by Act 255 of 2008, is further amended to read:

“Section 16‑25‑20. (A) It is unlawful to:

(1) cause physical harm or injury to a person’s own household member; or

(2) offer or attempt to cause physical harm or injury to a person’s own household member with apparent present ability under circumstances reasonably creating fear of imminent peril.

(B) Except as otherwise provided in this section, a person ~~who violates the provisions of subsection (A) is guilty of~~ commits the offense of ~~criminal~~ domestic violence ~~and, upon conviction, must be punished as follows~~ in the first degree if the person violates the provisions of subsection (A) and:

(1) ~~for a first offense, the person is guilty of a misdemeanor and must be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned not more than thirty days. The court may suspend the imposition or execution of all or part of the fine conditioned upon the offender completing, to the satisfaction of the court, and in accordance with the provisions of Section 16‑25‑20(H), a program designed to treat batterers. Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, an offense pursuant to the provisions of this subsection must be tried in summary court~~ great bodily injury to the person’s own household member results or the person offered or attempted to injure the person’s own household member with the present ability to do so and a reasonable person could assume great bodily injury could result;

(2) ~~for a second offense, the person is guilty of a misdemeanor and must be fined not less than two thousand five hundred dollars nor more than five thousand dollars and imprisoned not less than a mandatory minimum of thirty days nor more than one year. The court may suspend the imposition or execution of all or part of the sentence, except the thirty‑day mandatory minimum sentence, conditioned upon the offender completing, to the satisfaction of the court, and in accordance with the provisions of Section 16‑25‑20(H), a program designed to treat batterers. If a person is sentenced to a mandatory minimum of thirty days pursuant to the provisions of this subsection, the judge may provide that the sentence be served two days during the week or on weekends until the sentence is completed and is eligible for early release based on credits he is able to earn during the service of his sentence, including, but not limited to, good‑time credits~~ the person violates a protection order and in the process of violating the order commits domestic violence in the second degree;

(3) f~~or a third or subsequent offense, the person is guilty of a felony and must be imprisoned not less than a mandatory minimum of one year but not more than five years.~~ has two or more prior convictions of domestic violence within ten years of the current offense;

(4) the person uses a firearm in any manner while violating the provisions of subsection (A); or

(5) in the process of committing domestic violence in the second degree one of the following also results:

(a) the offense is committed in the presence of, or while being perceived by a minor;

(b) the offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;

(c) the offense is committed during the commission of a robbery, burglary, kidnapping, or theft;

(d) the offense is committed by impeding the victim’s breathing or air flow; or

(e) the offense is committed using physical force or the threatened use of force against another to block that person’s access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(i) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(ii) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

Domestic violence in the first degree is a lesser included offense of domestic violence of a high and aggravated nature, as defined in Section 16‑25‑65.

(C) ~~For the purposes of subsections (A) and (B), a conviction within the previous ten years for a violation of subsection (A), Section 16‑25‑65, or a criminal domestic violence offense in another state which includes similar elements to the provisions of subsection (A) or Section 16‑25‑65, constitutes a prior offense. A conviction for a violation of a criminal domestic violence offense in another state does not constitute a prior offense if the offense is committed against a person other than a “household member” as defined in Section 16‑25‑10.~~

~~(D)~~ ~~A person who violates the terms and conditions of an order of protection issued in this State under Chapter 4, Title 20, the ‘Protection from Domestic Abuse Act’, or a valid protection order related to domestic or family violence issued by a court of another state, tribe, or territory is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days and fined not more than five hundred dollars~~  A person commits the offense of domestic violence in the second degree if the person violates subsection (A) and:

(1) moderate bodily injury to their own household member results or moderate bodily injury to their own household member could have resulted; or

(2) the person violates a protection order and in the process of violating the order commits domestic violence in the third degree; or

(3) the person has one prior conviction for domestic violence in the past ten years from the current offense; or

(4) in the process of committing domestic violence in the third degree one of the following also results:

(a) the offense is committed in the presence of, or while being perceived by, a minor;

(b) the offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;

(c) the offense is committed during the commission of a robbery, burglary, kidnapping, or theft;

(d) the offense is committed by impeding the victim’s breathing or air flow; or

(e) the offense is committed using physical force or the threatened use of force against another to block that person’s access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(i) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(ii) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand five hundred dollars nor more than five thousand dollars or imprisoned for not more than three years, or both.

Domestic violence in the second degree is a lesser‑included offense of domestic violence in the first degree, as defined in subsection (A), and domestic violence of a high and aggravated nature, as defined in Section 16‑25‑65.

~~(E)~~(D) ~~Unless the complaint is voluntarily dismissed or the charge is dropped prior to the scheduled trial date, a person charged with a violation provided in this chapter must appear before a judge for disposition of the case~~ A person commits the offense of domestic violence in the third degree if the person violates subsection (A).

(1) A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned not more than six months, or both.

(2) Domestic violence in the third degree is a lesser‑included offense of domestic violence in the second degree, as defined in subsection (C), domestic violence in the first degree, as defined in subsection (B), and domestic violence of a high and aggravated nature, as defined in Section 16‑25‑65.

~~(F)~~(E) When a person is convicted of a violation of this section or Section 16‑25‑65 ~~or sentenced pursuant to subsection (C)~~, the court may suspend execution of all or part of the sentence~~, except for the mandatory minimum sentence,~~ and place the offender on probation, conditioned upon:

(1) the ~~offender completing~~ offender’s mandatory completion, to the satisfaction of the court, ~~a~~ of a domestic violence intervention program designed to treat batterers in accordance with the provisions of subsection (G);

(2) fulfillment of all the obligations arising under court order pursuant to this section and Section 16‑25‑65; ~~and~~

(3) other reasonable terms and conditions of probation as the court may determine necessary to ensure the protection of the victim; and

(4) making restitution as the court deems appropriate.

~~(G)~~(F) In determining whether or not to suspend the imposition or execution of all or part of a sentence as provided in this section, the court must consider the nature and severity of the offense, the number of times the offender has repeated the offense, and the best interests and safety of the victim.

~~(H)~~(G) An offender who participates in a ~~batterer treatment~~ domestic violence intervention program pursuant to this section, ~~must~~ shall participate in a program offered through a government agency, nonprofit organization, or private provider approved by the ~~Department of Social Services~~ Circuit Solicitor with jurisdiction over the offense or, if the offender moves to a different circuit after entering a treatment program, the Circuit Solicitor for the county in which the offender resides. The offender ~~must~~ shall pay a reasonable fee, if required, for participation in the ~~treatment~~ program but no person may be denied ~~treatment~~ participation due to inability to pay. If the offender suffers from a substance abuse problem or mental health concern, the judge may order, or the ~~batterer treatment~~ program may refer, the offender to supplemental treatment coordinated through the Department of Alcohol and Other Drug Abuse Services with the local alcohol and drug treatment authorities pursuant to Section 61‑12‑20 or the Department of Mental Health or Veterans’ Hospital, respectively. The offender must pay a reasonable fee for participation in the substance abuse treatment or mental health program, if required, but no person may be denied ~~treatment~~ participation due to inability to pay.

(H) A person who violates the terms and conditions of an order of protection issued in this State pursuant to Chapter 4, Title 20, the ‘Protection from Domestic Abuse Act’, or a valid protection order related to domestic or family violence issued by a court of another state, tribe, or territory is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days and fined not more than five hundred dollars.

(I) Unless the complaint is voluntarily dismissed or the charge is dropped prior to the scheduled trial date, a person charged with a violation provided in this chapter must appear before a judge for disposition of the case.

(J) Upon a plea agreement or conviction for a violation of subsection (D), the judge shall make a determination as to whether the defendant shall have his civil rights restored in accordance with 18 U.S.C. 921(a)(33)(B)(ii).

(K) Notwithstanding any other provision of law, the judge may provide, as a condition of bond, that an offender who violates the provisions of subsection (B) or (C) may not ship, transport, possess, or receive a firearm or ammunition while the offender is under bond.”

SECTION 4. Section 16‑25‑65 of the 1976 Code, as last amended by Act 166 of 2005, is further amended to read:

“Section 16‑25‑65. (A) A person who violates Section 16‑25‑20(A) is guilty of the offense of ~~criminal~~ domestic violence of a high and aggravated nature when one of the following occurs. The person ~~commits~~:

(1) ~~an assault and battery which involves the use of a deadly weapon or results in serious bodily injury to the victim~~ commits the offense under circumstances manifesting extreme indifference to the value of human life and great bodily injury to the victim results; ~~or~~

(2) ~~an assault, with or without an accompanying battery, which would reasonably cause a person to fear imminent serious bodily injury or death.~~ commits the offense, with or without an accompanying battery and under circumstances manifesting extreme indifference to the value of human life, and would reasonably cause a person to fear imminent great bodily injury or death; or

(3) violates a protection order and, in the process of violating the order, commits domestic violence in the first degree.

(B) A person who violates subsection (A) is guilty of a felony and, upon conviction, must be imprisoned ~~not less than a mandatory minimum of one year nor more than ten years. The court may suspend the imposition or execution of all or part of the sentence, except the one‑year mandatory minimum sentence, and place the offender on probation conditioned upon the offender completing, to the satisfaction of the court, a program designed to treat batterers offered through a government agency, nonprofit organization, or private provider approved by the Department of Social Services. The offender must pay a reasonable fee for participation in the treatment program, but no person may be denied treatment due to inability to pay. If the offender suffers from a substance abuse problem, the judge may order, or the batterer treatment program may refer, the offender to supplemental treatment coordinated through the Department of Alcohol and Other Drug Abuse Services with the local alcohol and drug treatment authorities pursuant to Section 61‑12‑20. The offender must pay a reasonable fee for participation in the substance abuse treatment program, but no person may be denied treatment due to inability to pay~~ for not more than twenty years.

(C) The provisions of subsection (A) create a statutory offense of ~~criminal~~ domestic violence of a high and aggravated nature and must not be construed to codify the common law crime of assault and battery of a high and aggravated nature.

(D) Circumstances manifesting extreme indifference to the value of human life include, but are not limited to, the following:

(1) using a deadly weapon;

(2) impeding the normal breathing or circulation of the blood of a household member by applying pressure to the throat or neck or by obstructing the nose or mouth of a household member;

(3) committing the offense in the presence of a minor;

(4) committing the offense against a person he knew, or should have known, to be pregnant;

(5) committing the offense during the commission of a robbery, burglary, kidnapping, or theft; or

(6) using physical force against another to block that person’s access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(a) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(b) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

(E) Notwithstanding any other provision of law, the judge may provide, as a condition of bond, that an offender who violates the provisions of this section may not ship, transport, possess, or receive a firearm or ammunition while the offender is under bond.”

SECTION 5. Section 16‑1‑60 of the 1976 Code, as last amended by Act 255 of 2012, is further amended to read:

“Section 16‑1‑60. For purposes of definition under South Carolina law, a violent crime includes the offenses of: murder (Section 16‑3‑10); attempted murder (Section 16‑3‑29); assault and battery by mob, first degree, resulting in death (Section 16‑3‑210(B)), criminal sexual conduct in the first and second degree (Sections 16‑3‑652 and 16‑3‑653); criminal sexual conduct with minors, first, second, and third degree (Section 16‑3‑655); assault with intent to commit criminal sexual conduct, first and second degree (Section 16‑3‑656); assault and battery with intent to kill (Section 16‑3‑620); assault and battery of a high and aggravated nature (Section 16‑3‑600(B)); kidnapping (Section 16‑3‑910); trafficking in persons (Section 16‑3‑930); voluntary manslaughter (Section 16‑3‑50); armed robbery (Section 16‑11‑330(A)); attempted armed robbery (Section 16‑11‑330(B)); carjacking (Section 16‑3‑1075); drug trafficking as defined in Section 44‑53‑370(e) or trafficking cocaine base as defined in Section 44‑53‑375(C); manufacturing or trafficking methamphetamine as defined in Section 44‑53‑375; arson in the first degree (Section 16‑11‑110(A)); arson in the second degree (Section 16‑11‑110(B)); burglary in the first degree (Section 16‑11‑311); burglary in the second degree (Section 16‑11‑312(B)); engaging a child for a sexual performance (Section 16‑3‑810); homicide by child abuse (Section 16‑3‑85(A)(1)); aiding and abetting homicide by child abuse (Section 16‑3‑85(A)(2)); inflicting great bodily injury upon a child (Section 16‑3‑95(A)); allowing great bodily injury to be inflicted upon a child (Section 16‑3‑95(B)); ~~criminal~~ domestic violence of a high and aggravated nature (Section 16‑25‑65); domestic violence in the first degree (Section 16‑25‑20(B)); abuse or neglect of a vulnerable adult resulting in death (Section 43‑35‑85(F)); abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43‑35‑85(E)); taking of a hostage by an inmate (Section 24‑13‑450); detonating a destructive device upon the capitol grounds resulting in death with malice (Section 10‑11‑325(B)(1)); spousal sexual battery (Section 16‑3‑615); producing, directing, or promoting sexual performance by a child (Section 16‑3‑820); sexual exploitation of a minor first degree (Section 16‑15‑395); sexual exploitation of a minor second degree (Section 16‑15‑405); promoting prostitution of a minor (Section 16‑15‑415); participating in prostitution of a minor (Section 16‑15‑425); aggravated voyeurism (Section 16‑17‑470(C)); detonating a destructive device resulting in death with malice (Section 16‑23‑720(A)(1)); detonating a destructive device resulting in death without malice (Section 16‑23‑720(A)(2)); boating under the influence resulting in death (Section 50‑21‑113(A)(2)); vessel operator’s failure to render assistance resulting in death (Section 50‑21‑130(A)(3)); damaging an airport facility or removing equipment resulting in death (Section 55‑1‑30(3)); failure to stop when signaled by a law enforcement vehicle resulting in death (Section 56‑5‑750(C)(2)); interference with traffic‑control devices, railroad signs, or signals resulting in death (Section 56‑5‑1030(B)(3)); hit and run resulting in death (Section 56‑5‑1210(A)(3)); felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (Section 56‑5‑2945(A)(2)); putting destructive or injurious materials on a highway resulting in death (Section 57‑7‑20(D)); obstruction of a railroad resulting in death (Section 58‑17‑4090); accessory before the fact to commit any of the above offenses (Section 16‑1‑40); and attempt to commit any of the above offenses (Section 16‑1‑80). Only those offenses specifically enumerated in this section are considered violent offenses.”

SECTION 6. Section 17‑25‑45(C)(2) of the 1976 Code is amended to read:

“(2) ‘Serious offense’ means:

(a) any offense which is punishable by a maximum term of imprisonment for thirty years or more which is not referenced in subsection (C)(1);

(b) those felonies enumerated as follows:

16‑3‑220 Lynching, Second degree

16‑3‑210(C) Assault and battery by mob, Second degree

16‑3‑600(B) Assault and battery of a high and aggravated nature

16‑3‑810 Engaging child for sexual performance

16‑9‑220 Acceptance of bribes by officers

16‑9‑290 Accepting bribes for purpose of procuring public office

16‑11‑110(B) Arson, Second degree

16‑11‑312(B) Burglary, Second degree

16‑11‑380(B) Theft of a person using an automated teller machine

16‑13‑210(1) Embezzlement of public funds

16‑13‑230(B)(3) Breach of trust with fraudulent intent

16‑13‑240(1) Obtaining signature or property by false pretenses

16‑25‑20(B) Domestic violence, First degree

16‑25‑65 Domestic violence of a high and aggravated nature

38‑55‑540(3) Insurance fraud

44‑53‑370(e) Trafficking in controlled substances

44‑53‑375(C) Trafficking in ice, crank, or crack cocaine

44‑53‑445(B)(1)&(2) Distribute, sell, manufacture, or possess with intent to distribute controlled substances within proximity of school

56‑5‑2945 Causing death by operating vehicle while under influence of drugs or alcohol; and

(c) the offenses enumerated below:

16‑1‑40 Accessory before the fact for any of the offenses listed in subitems (a) and (b)

16‑1‑80 Attempt to commit any of the offenses listed in subitems (a) and (b)

43‑35‑85(E) Abuse or neglect of a vulnerable adult resulting in great bodily injury.”

SECTION 7. Section 56‑7‑10(A) of the 1976 Code is amended to read:

“(A) There will be a uniform traffic ticket used by all law enforcement officers in arrests for traffic offenses and for the following additional offenses:

Offense Citation

Interfering with Police Officer

Serving Process Section 16‑5‑50

Dumping Trash on Highway/Private

Property Section 16‑11‑700

Indecent Exposure Section 16‑15‑130

Disorderly Conduct Section 16‑17‑530

Damaging Highway Section 57‑7‑10

Place Glass, Nails, Etc. on Highway Section 57‑7‑20

Obstruction of Highway by Railroad

Cars, Etc. Section 57‑7‑240

Signs Permitted on Interstate Section 57‑25‑140

Brown Bagging Section 61‑5‑20

Drinking Liquors in Public

Conveyance Section 61‑13‑360

Poles Dragging on Highway Section 57‑7‑80

Open Container Section 61‑9‑87

Purchase or Possession of Beer or

Wine by a Person Under Age Section 63‑19‑2440

Purchase or Possession of

Alcoholic Liquor by a Person

Under Age Twenty‑One Section 63‑19‑2450

Unlawful Possession and

Consumption of Alcoholic Liquors Section 61‑5‑30

Sale of Beer or Wine on Which

Tax Has Not Been Paid Section 61‑9‑20

Falsification of Age to Purchase

Beer or Wine Section 61‑9‑50

Unlawful Purchase of Beer or

Wine for a Person Who Cannot

Legally Buy Section 61‑9‑60

Unlawful Sale or Purchase of Beer

or Wine, Giving False Information

as to Age, Buying Beer or Wine

Unlawfully for Another Section 61‑9‑85

Employment of a Person Under the

Age of Twenty‑One as an

Employee in Retail or Wholesale

or Manufacturing Liquor Business Section 61‑13‑340

Failure to Remove Doors from

Abandoned Refrigerators Section 16‑3‑1010

Malicious Injury to Animals

or Personal Property Section 16‑11‑510

Timber, Logs, or Lumber Cutting,

Removing, Transporting Without

Permission, Valued at Less Than

Fifty Dollars Section 16‑11‑580

Littering Section 16‑11‑700

Larceny of a Bicycle Valued at

Less Than One Hundred Dollars Section 16‑13‑80

Shoplifting Section 16‑13‑110

Cock Fighting Section 16‑17‑650

Ticket Scalping Section 16‑17‑710

~~Criminal~~ Domestic Violence, ~~First~~

~~Offense and Second Offense (B)(1)~~

~~and (2)~~ second and third degree Section 16‑25‑20

Glue Sniffing Section 44‑53‑1110

Trespassing Section 16‑11‑755

Trespassing Section 16‑11‑600

Trespassing Section 16‑11‑610

Trespassing Section 16‑11‑620

Negligent Operation of

Watercraft; Operation of

Watercraft While Under Influence

of Alcohol or Drugs Section 50‑21‑110

Negligence of Boat Livery to

Provide Proper Equipment and

Registration Section 50‑21‑120

Interference with Aids to

Navigation or Regulatory

Markers or Operation of

Watercraft in Prohibited Area Section 50‑21‑170

Operation of Watercraft Without

a Certificate of Title Section 50‑23‑190

Parking on private property without

permission Section 16‑11‑760

Certificate of Veterinary Inspection;

Requirement for Out‑of‑ State

Livestock or Poultry Section 47‑4‑60

Inhibition of Livestock Inspection Section 47‑4‑120

Imported Swine Section 47‑6‑50

Operating Equine Sales Facility or

Livestock Market Without Permit Section 47‑11‑20

Liability of Person Removing

Livestock for Slaughter Section 47‑11‑120

Notice to Disinfect Section 47‑13‑310

Quarantine of Livestock or Poultry Section 47‑4‑70

Unlawful for Horse to Enter

State Unless Tested Section 47‑13‑1350

Quarantine of Exposed Horses Section 47‑13‑1360

Proof of Test Required for Public

Assembly of Horses Section 47‑13‑1370

False Certificates Section 47‑13‑1390

Unlawful to Feed Garbage to Swine Section 47‑15‑20

Notification Required from Certain

Persons Disposing of Garbage Section 47‑15‑40

Sale of Uninspected Meat and Meat

Products Section 47‑17‑60

Sale of Uninspected Poultry

and Poultry Product Section 47‑19‑70”

Part III

Bond Reform

SECTION 8. Section 17‑15‑30 of the 1976 Code, as last amended by Act 144 of 2014, is further amended to read:

“Section 17‑15‑30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court may, on the basis of the following information, consider the nature and circumstances of an offense charged and the charged person’s:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(B) A court shall consider:

(1) a person’s criminal record;

(2) any charges pending against a person at the time release is requested;

(3) all incident reports generated as a result of an offense charged;

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division.

(C)(1) Prior to or at the time of a hearing, the arresting law enforcement agency shall provide the court with the following information:

(a) a person’s criminal record;

(b) any charges pending against a person at the time release is requested;

(c) all incident reports generated as a result of the offense charged; and

(d) any other information that will assist the court in determining conditions of release.

(2) The arresting law enforcement agency shall inform the court if any of the information is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person’s hearing. Notwithstanding the provisions of this item, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person’s criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty‑four hours after the arrest.

(D) A court hearing these matters has contempt powers to enforce the provisions of this section.

(E) Within twenty-four hours after the filing of a rule to show cause alleging a violation of a condition of the bond, the court shall schedule an emergency hearing and may issue a bench warrant for contempt if the party fails to appear. The court may revoke bond if the court finds the party failed to adhere to a condition of the bond.”

SECTION 9. Section 22‑5‑510 of the 1976 Code, as last amended by Act 144 of 2014, is further amended to read:

“Section 22‑5‑510. (A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to Section 15, Article I of the Constitution of South Carolina, 1895, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event, including, but not limited to, any charges pending against the person requesting bail. ‘Violent offenses’ as used in this section means the offenses contained in Section 16‑1‑60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.

(B) A person charged with a bailable offense must have a bond hearing within twenty‑four hours of his arrest and must be released within a reasonable time, not to exceed four hours, after the bond is delivered to the incarcerating facility.

(C) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court, on the basis of the following information, may consider the nature and circumstances of an offense charged and the charged person’s:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(D) A court shall consider:

(1) a person’s criminal record;

(2) any charges pending against a person at the time release is requested;

(3) all incident reports generated as a result of an offense charged;

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division.

(E) Prior to or at the time of the bond hearing, the arresting law enforcement agency shall provide the court with the following information:

(1) the person’s criminal record;

(2) any charges pending against the person at the time release is requested;

(3) all incident reports generated as a result of the offense charged; and

(4) any other information that will assist the court in determining conditions of release.

(F) The arresting law enforcement agency shall inform the court if any of the information required in subsections (C), (D), and (E) is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person’s bond hearing. Notwithstanding the provisions of this subsection, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person’s criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty‑four hours after the arrest.

(G) A court hearing this matter has contempt powers to enforce these provisions.

(H) Within twenty-four hours after the filing of a rule to show cause alleging a violation of a condition of the bond, the court shall schedule an emergency hearing and may issue a bench warrant for contempt if the party fails to appear. The court may revoke bond if the court finds the party failed to adhere to a condition of the bond.”

SECTION 10. Section 17‑15‑10 of the 1976 Code is amended to read:

“Section 17‑15‑10. (A) ~~Any~~ A person charged with a noncapital offense triable in either the magistrates, county or circuit court, shall, at his appearance before any of such courts, be ordered released pending trial on his own recognizance without surety in an amount specified by the court, unless the court determines in its discretion that such a release will not reasonably assure the appearance of the person as required, or unreasonable danger to the community or an individual will result. If such a determination is made by the court, it may impose any one or more of the following conditions of release:

(1) require the execution of an appearance bond in a specified amount with good and sufficient surety or sureties approved by the court;

(2) place the person in the custody of a designated person or organization agreeing to supervise him;

(3) place restrictions on the travel, association, or place of abode of the person during the period of release;

(4) impose any other conditions deemed reasonably necessary to assure appearance as required, including a condition that the person return to custody after specified hours.

(B) ~~Any~~ A person charged with the offense of burglary in the first degree pursuant to Section 16‑11‑311 may have his bond hearing for that charge in summary court unless the solicitor objects.”

SECTION 11. Section 16‑25‑120 (A) and (B) of the 1976 Code are amended to read:

“(A) In addition to the provisions of Section 17‑15‑30, the court ~~may~~ must consider the factors provided in subsection (B) when considering release of a person on bond who is charged with a violent offense, as defined in Section 16‑1‑60, when the victim of the offense is a household member, as defined in Section 16‑25‑10, and the person:

(1) is subject to the terms of a valid order of protection or restraining order at the time of the offense in this State or another state; or

(2) has a previous conviction involving the violation of a valid order of protection or restraining order in this State or another state.

(B) The court ~~may~~ must consider the following factors before release of a person on bond who is subject to the provisions of subsection (A):

(1) whether the person has a history of ~~criminal~~ domestic violence, as defined in this article, or a history of other violent offenses, as defined in Section 16‑1‑60;

(2) the mental health of the person;

(3) whether the person has a history of violating the orders of a court or other governmental agency; and

(4) whether the person poses a potential threat to another person.”

SECTION 12. Section 17‑15‑50 of the 1976 Code is amended to read:

“Section 17‑15‑50. The court with jurisdiction of the offense may, at any time after notice and hearing, amend the order to impose additional or different conditions of release.”

SECTION 13. Section 17‑15‑55 of the 1976 Code, as last amended by Act 144 of 2014, is further amended by adding an appropriately lettered subsection at the end to read:

“( ) For the purpose of bond revocation only, a summary court has concurrent jurisdiction with the circuit court for ten days from the date bond is first set on a charge by the summary court to determine if bond should be revoked.”

Part IV

Social Policy

SECTION 14. Section 16‑25‑70(A) and (B) of the 1976 Code, as last amended by Act 319 of 2008, is further amended to read:

“(A) A law enforcement officer may arrest, with or without a warrant, a person at the person’s place of residence or elsewhere if the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony pursuant to the provisions of Section 16‑25‑20(A) or (D), 16‑25‑65, or 16‑25‑125, even if the act did not take place in the presence of the officer. The officer may, if necessary, verify the existence of probable cause related to a violation pursuant to the provisions of this chapter by telephone or radio communication with the appropriate law enforcement agency. A law enforcement agency must complete an investigation of an alleged violation of this chapter even if the law enforcement agency was not notified at the time the alleged violation occurred. The investigation must be documented on an incident report form which must be maintained by the investigating agency. If an arrest warrant is sought, the law enforcement agency must present the results of the investigation and any other relevant evidence to a magistrate who may issue an arrest warrant if probable cause is established.

(B)(1) ~~A law enforcement officer must arrest, with or without a warrant, a person at the person’s place of residence or elsewhere if physical manifestations of injury to the alleged victim are present and the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony under the provisions of Section 16‑25‑20(A) or (D), or 16‑25‑65 even if the act did not take place in the presence of the officer.~~ A law enforcement officer ~~is~~ may not ~~required to~~ make an arrest if he determines probable cause does not exist after consideration of the factors set forth in subsection (D) and observance that no physical manifestation of injury is present. The officer may, if necessary, verify the existence of an order of protection by telephone or radio communication with the appropriate law enforcement agency.

(2) If the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony under the provisions of Section 16‑25‑20(B), (C), (D), or (H) or Section 16‑25‑65, a law enforcement officer must arrest, with or without a warrant, a person at the person’s place of residence or elsewhere, even if the act did not take place in the presence of the officer. The officer may, if necessary, verify the existence of an order of protection by telephone or radio communication with the appropriate law enforcement agency.”

SECTION 15. The Department of Social Services in consultation with the South Carolina Voucher Program is directed to study current regulations and policies to ensure a domestic violence survivor may apply for childcare and receive childcare services while living in a traditional shelter or while sheltering in the home. The availability of such childcare must be designed to assist the survivor in receiving necessary services related to the care of the child in order to encourage participation in relevant court hearings if the survivor so chooses. The Department of Social Services and the South Carolina Voucher Program shall review relevant regulations as provided in this SECTION and report to the General Assembly by January 1, 2016, on whether current regulations are sufficient to meet the requirements of this SECTION or new regulations must be submitted to the General Assembly.

SECTION 16. Section 17‑22‑90(7) of the 1976 Code is amended to read:

“(7) if the offense is ~~first offense criminal~~ domestic violence pursuant to Section 16‑25‑20, agree in writing to successful completion of a batterer’s treatment program approved by the ~~Department of Social Services~~ Circuit Solicitor with jurisdiction over the offense or, if the offender moves to a different circuit after entering a treatment program, the Circuit Solicitor for the county in which the offender resides. When referring a person to a batterer’s treatment program, a court may designate a program to be used based on the court’s experience with the program regarding successful completion of the program and the level of appropriate communication between the program and the court regarding a person’s attendance.”

SECTION 17. Chapter 25, Title 16 of the 1976 Code is amended by adding:

“Article 3

Domestic Violence Advisory Committee

Section 16‑25‑310. For purposes of this article:

(1) ‘Committee’ means the Domestic Violence Advisory Committee.

(2) ‘Household member’ means a household member as defined in Section 16‑25‑10.

(3) ‘Meeting’ means both in‑person meetings and meetings through telephone conferencing.

(4) ‘Provider of medical care’ means a licensed health care practitioner who provides, or a licensed health care facility through which is provided, medical evaluation or treatment, including dental and mental health evaluation or treatment.

(5) ‘Working day’ means Monday through Friday, excluding official state holidays.

Section 16‑25‑320. (A) There is created a multidisciplinary Domestic Violence Advisory Committee composed of:

(1) the Attorney General of the State of South Carolina, or a designee, who serves ex officio;

(2) the Director of the South Carolina Department of Social Services, or a designee, who serves ex officio;

(3) the Director of the South Carolina Department of Health and Environmental Control, or a designee, who serves ex officio;

(4) the Director of the South Carolina Criminal Justice Academy; or a designee, who serves ex officio;

(5) the Chief of the South Carolina Law Enforcement Division, or a designee, who serves ex officio;

(6) the Director of the South Carolina Department of Alcohol and Other Drug Abuse Services, or a designee, who serves ex officio;

(7) the Director of the South Carolina Department of Mental Health, or a designee, who serves ex officio;

(8) a county coroner or medical examiner, appointed by the Governor on the recommendation of the South Carolina Criminal Justice Academy, who serves ex officio;

(9) a solicitor, appointed by the Governor on the recommendation of the Attorney General, who serves ex officio;

(10) a sheriff, appointed by the Governor on the recommendation of the Sheriffs’ Association;

(11) a victim advocate, appointed by the Governor on the recommendation of the State Office of Victim Assistance of the Office of the Governor;

(12) a physician with experience in treating victims of domestic violence, appointed by the Governor on the recommendation of the South Carolina Medical Association;

(13) two members of the public at large dedicated to the issue of domestic violence, appointed by the Governor;

(14) a police chief, appointed by the Governor on the recommendation of the Law Enforcement Officers’ Association;

(15) one member of the South Carolina Senate, appointed by the Senate Judiciary Committee Chairman; and

(16) one member of the South Carolina House of Representatives, appointed by the House Judiciary Committee Chairman.

(B)(1) If an individual enumerated in items (A)(1) through (7) designates an employee to serve as the committee member, the designee must have administrative or program responsibilities for domestic violence.

(2) A member appointed by the Governor shall serve a term of four years and until a successor is appointed and qualifies.

(C) The members of the committee shall elect a chairman and vice chairman from among the membership by a majority vote. The chairman and vice chairman shall serve terms of two years.

(D) The committee shall hold meetings at least quarterly. A majority of the committee constitutes a quorum for the purpose of holding a meeting.

(E) Each ex officio member shall provide sufficient staff and administrative support to carry out the responsibilities of this article.

Section 16‑25‑330. (A) The purpose of the Domestic Violence Advisory Committee is to decrease the incidences of domestic violence by:

(1) developing an understanding of the causes and incidences of domestic violence;

(2) developing plans for and implementing changes within the agencies represented on the committee which will prevent domestic violence; and

(3) advising the Governor and the General Assembly on statutory, policy, and practice changes which will prevent domestic violence.

(B) To achieve its purpose, the committee shall:

(1) undertake annual statistical studies of the incidences and causes of domestic violence in this State, including an analysis of:

(a) community and public and private agency involvement with the victims and their families;

(b) whether the abuser has a previous criminal record involving domestic violence or assault and battery;

(c) recidivism rates;

(d) the presence of alcohol or drug use;

(e) whether the abuser has participated in a batterer treatment program or other similar treatment program and the name of the program;

(f) the success or failure rate of approved treatment programs;

(g) married versus unmarried rates of violence; and

(h) the rate of domestic violence per county;

(2) consider training, including cross‑agency training, consultation, technical assistance needs, and service gaps that would decrease the likelihood of domestic violence;

(3) determine the need for changes to any statute, regulation, policy, or procedure to decrease the incidences of domestic violence and include proposals for changes to statutes, regulations, policies, and procedures in the committee’s annual report;

(4) educate the public regarding the incidences and causes of domestic violence, specific steps the public can undertake to prevent domestic violence, and the support that civic, philanthropic, and public service organizations can provide in assisting the committee to educate the public;

(5) develop and implement policies and procedures for its own governance and operation;

(6) submit to the Governor and the General Assembly a publicly available annual written report and any other reports prepared by the committee including, but not limited to, the committee’s findings and recommendations; and

(7) review closed domestic violence cases selected by the Attorney General or solicitor’s representative on the committee to provide the commission with the best opportunity to fulfill its duties under the section.

Section 16‑25‑340. Upon request of the committee and as necessary to carry out the committee’s purpose and duties, the committee immediately must be provided:

(1) by a provider of medical care, access to information and records regarding a person whose death is being reviewed by the department pursuant to this article;

(2) access to all information and records maintained by any state, county, or local government agency including, but not limited to, birth certificates, law enforcement investigation data, county coroner or medical examiner investigation data, parole and probation information and records, and information and records of social services and health agencies that provided services to the victim, alleged perpetrator, and other household members.

Section 16‑25‑350. When necessary in the discharge of the duties of the committee and upon application of the committee, the clerks of court shall issue a subpoena or subpoena duces tecum to any state, county, or local agency, board, or commission or to a representative of any state, county, or local agency, board, or commission or to a provider of medical care to compel the attendance of witnesses and production of documents, books, papers, correspondence, memoranda, and other relevant records to the discharge of the department’s duties. Failure to obey a subpoena or subpoena duces tecum issued pursuant to this section may be punished as contempt.

Section 16‑25‑360. (A) Meetings of the committee are closed to the public and are not subject to Chapter 4, Title 30, the Freedom of Information Act, when the committee and department are discussing an individual case of a domestic violence.

(B) Except as provided in subsection (C), meetings of the committee are open to the public and subject to the Freedom of Information Act when the committee is not discussing an individual case of a domestic violence.

(C) Information identifying a victim or a household member, guardian, or caretaker of a victim, or an alleged or suspected perpetrator of domestic violence may not be disclosed during a public meeting, and information regarding the involvement of any agency with the victim, alleged perpetrator, and other household members may not be disclosed during a public meeting.

(D) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

Section 16‑25‑370. (A) All information and records acquired by the committee in the exercise of their purposes and duties pursuant to this article are confidential, exempt from disclosure under Chapter 4, Title 30, the Freedom of Information Act, and only may be disclosed as necessary to carry out the committee’s and department’s duties and purposes.

(B) Statistical compilations of data which do not contain information that would permit the identification of a person to be ascertained are public records.

(C) Reports of the committee which do not contain information that would permit the identification of a person to be ascertained are public information.

(D) Except as necessary to carry out the committee’s purposes and duties, members of the committee and persons attending their meeting may not disclose what transpired at a meeting which is not public under Section 16‑25‑360 and may not disclose information, the disclosure of which is prohibited by this section.

(E) Members of the committee, persons attending a committee meeting, and persons who present information to the committee may not be required to disclose in any civil or criminal proceeding information presented in or opinions formed as a result of a meeting, except that information available from other sources is not immune from introduction into evidence through those sources solely because it was presented during proceedings of the committee or department or because it is maintained by the committee or department. Nothing in this subsection prevents a person from testifying to information obtained independently of the committee or which is public information.

(F) Information, documents, and records of the committee are not subject to subpoena, discovery, or the Freedom of Information Act, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery, or the Freedom of Information Act through those sources solely because they were presented during proceedings of the committee or department or because they are maintained by the committee or department.

(G) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned for not more than six months, or both.”

SECTION 18. Chapter 25, Title 16 of the 1976 Code is amended by adding:

“Article 5

Community Domestic Violence Coordinating Councils

Section 16‑25‑510. The circuit solicitor shall facilitate the development of community domestic violence coordinating councils in each county or judicial circuit based upon public‑private sector collaboration.

Section 16‑25‑520. The purpose of a community domestic violence coordinating council is to:

(1) increase the awareness and understanding of domestic violence and its consequences;

(2) reduce the incidence of domestic violence in the county or area served; and

(3) enhance and ensure the safety of battered individuals and their children.

Section 16‑25‑530. The duties and responsibilities of a community domestic violence coordinating council include, but are not limited to:

(1) promoting effective strategies of intervention for identifying the existence of domestic violence and for intervention by public and private agencies;

(2) establishing interdisciplinary and interagency protocols for intervention with survivors of domestic violence;

(3) facilitating communication and cooperation among agencies and organizations that are responsible for addressing domestic violence;

(4) monitoring, evaluating, and improving the quality and effectiveness of domestic violence services and protections in the community;

(5) providing public education and prevention activities; and

(6) providing professional training and continuing education activities.

Section 16‑25‑540. Membership on a community domestic violence coordinating council may include, but is not limited to, representatives from magistrates court, family court, law enforcement, solicitor’s office, probation and parole, batterer intervention programs or services, nonprofit battered individual’s program advocates, counseling services for children, legal services, victim assistance programs, the medical profession, substance abuse counseling programs, the clergy, survivors of domestic violence, local department of social services, and the education community. Members on the council shall develop memoranda of agreement among and between themselves to ensure clarity of roles and responsibilities in providing services to victims of domestic violence.

Section 16‑25‑550. Each community domestic violence coordinating council is responsible for generating revenue for its operation and administration.”

SECTION 19. Section 59‑32‑30(A)(2) of the 1976 Code is amended to read:

“(2) Beginning with the ~~1988‑89~~ 1988‑1989 school year, for grades six through eight, instruction in comprehensive health must include the following subjects: community health, consumer health, environmental health, growth and development, nutritional health, personal health, prevention and control of diseases and disorders, safety and accident prevention, substance use and abuse, dental health, mental and emotional health, and reproductive health education. Sexually transmitted diseases are to be included as a part of instruction. At the discretion of the local board, instruction in family life education or pregnancy prevention education or both may be included, but instruction in these subjects may not include an explanation of the methods of contraception before the sixth grade. Beginning with the 2016‑2017 school year, for grades six through eight, instruction in comprehensive health education also must include the subject of domestic violence.”

SECTION 20. Sections 22-3-546 and 43‑1‑260 of the 1976 Code are repealed.

Part V

Savings Clause and Effective Date

SECTION 21. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 22. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “DOMESTIC VIOLENCE REFORM ACT”; TO AMEND SECTION 16‑25‑10, AS AMENDED, RELATING TO DEFINITIONS FOR PURPOSES OF DOMESTIC VIOLENCE OFFENSES, SO AS TO DEFINE OTHER NECESSARY TERMS; TO AMEND SECTION 16‑25‑20, AS AMENDED, RELATING TO DOMESTIC VIOLENCE OFFENSES, SO AS TO RESTRUCTURE THE OFFENSES BY GRADUATING THE PENALTIES INTO DEGREES, DEFINE THE ELEMENTS OF EACH DEGREE, AND PROVIDE A NEW PENALTY STRUCTURE; TO AMEND SECTION 16‑25‑65, AS AMENDED, RELATING TO DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE, SO AS TO RESTRUCTURE THE OFFENSE, REDEFINE THE ELEMENTS OF THE OFFENSE, TO RESTRUCTURE THE PENALTY, AND TO PROVIDE THAT AS A CONDITION OF BOND FOR THIS OFFENSE, THE JUDGE MAY PROVIDE THAT THE OFFENDER MAY NOT SHIP, TRANSPORT, POSSESS, OR RECEIVE A FIREARM OR AMMUNITION WHILE THE OFFENDER IS UNDER BOND; TO AMEND SECTION 16‑1‑60, AS AMENDED, RELATING TO CRIMES DEFINED AS VIOLENT, SO AS TO INCLUDE DOMESTIC VIOLENCE IN THE FIRST DEGREE AS A VIOLENT CRIME; TO AMEND SECTION 17‑25‑45, RELATING TO OFFENSES DEFINED AS “MOST SERIOUS” AND “SERIOUS”, SO AS TO ADD THE OFFENSES OF DOMESTIC VIOLENCE OF A HIGH AND AGGRAVATED NATURE AND DOMESTIC VIOLENCE IN THE FIRST DEGREE TO THE LIST OF “SERIOUS” OFFENSES; TO AMEND SECTION 16‑3‑600, AS AMENDED, RELATING TO ASSAULT AND BATTERY OFFENSES, SO AS TO REVISE THE DEFINITION OF “MODERATE BODILY INJURY”; TO AMEND SECTION 22-3-546, RELATING TO THE AUTHORIZATION OF CIRCUIT SOLICITORS, IN THEIR DISCRETION, TO ESTABLISH A PROGRAM FOR PROSECUTION OF FIRST OFFENSE DOMESTIC VIOLENCE OFFENSES, SO AS TO EXPAND THE PROGRAMS TO INCLUDE ALL MISDEMEANOR DOMESTIC VIOLENCE OFFENSES; TO AMEND SECTION 22‑5‑530, AS AMENDED, RELATING TO DEPOSITS IN LIEU OF RECOGNIZANCE AND PAYMENT TO A JAIL OR CORRECTIONAL FACILITY TO SECURE IMMEDIATE RELEASE, SO AS TO PROVIDE THAT THE PROVISIONS OF THE SECTION DO NOT APPLY TO A PERSON CHARGED WITH A DOMESTIC VIOLENCE OFFENSE AND SUCH A PERSON IS EXPRESSLY PROHIBITED FROM MAKING A DEPOSIT IN LIEU OF RECOGNIZANCE TO SECURE IMMEDIATE RELEASE; TO AMEND SECTION 17‑15‑30 AND SECTION 22‑5‑510, BOTH AS AMENDED, RELATING TO MATTERS TO BE CONSIDERED WHEN DETERMINING CONDITIONS OF RELEASE ON BOND AND BOND HEARINGS AND INFORMATION TO BE PROVIDED TO THE COURT, RESPECTIVELY, BOTH SO AS TO REQUIRE THE COURT TO CONSIDER IF RELEASE ON BOND WOULD CONSTITUTE AN UNREASONABLE DANGER TO THE COMMUNITY OR AN INDIVIDUAL, TO PROVIDE THAT WHEN A PERSON IS CHARGED WITH A VIOLATION OF CERTAIN DOMESTIC VIOLENCE OFFENSES THAT A BOND HEARING MAY NOT PROCEED WITHOUT THE PERSON’S CRIMINAL RECORD AND INCIDENT REPORT, OR THE PRESENCE OF THE ARRESTING OFFICER, TO REQUIRE BOND HEARINGS FOR THESE VIOLATIONS TO BE HELD WITHIN TWENTY‑FOUR HOURS AFTER ARREST, AND TO PROVIDE THAT FAILURE OF A PARTY TO ADHERE TO A CONDITION OF BOND MAY RESULT IN THE ISSUANCE OF A BENCH WARRANT FOR CONTEMPT; TO AMEND SECTION 17‑15‑10, RELATING TO PERSONS WHO MAY BE RELEASED PENDING TRIAL, SO AS TO REQUIRE THE COURT TO CONSIDER IF RELEASE ON BOND WOULD CONSTITUTE AN UNREASONABLE DANGER TO THE COMMUNITY OR AN INDIVIDUAL; TO AMEND SECTION 16‑25‑120, AS AMENDED, RELATING TO THE RELEASE OF A PERSON ON BOND WHO IS CHARGED WITH A VIOLENT OFFENSE OR WHEN THE VICTIM IS A HOUSEHOLD MEMBER, SO AS TO PROVIDE THAT THE COURT MUST CONSIDER CERTAIN FACTORS BEFORE RELEASING A PERSON ON BOND; TO AMEND SECTION 17-15-50, RELATING TO AMENDMENT OF AN ORDER RELATING TO BOND, SO AS TO CLARIFY THAT THE COURT WITH JURISDICTION OF THE OFFENSE MAY AMEND THE ORDER AT ANY TIME; TO AMEND SECTION 17‑15‑55, AS AMENDED, RELATING TO BOND AND THE AUTHORITY OF THE CIRCUIT COURT TO REVOKE BOND UNDER CERTAIN CIRCUMSTANCES, SO AS TO PROVIDE FOR THE PURPOSE OF BOND REVOCATION ONLY THAT A SUMMARY COURT HAS CONCURRENT JURISDICTION WITH THE CIRCUIT COURT FOR TEN DAYS FROM THE DATE BOND IS FIRST SET ON A CHARGE BY THE SUMMARY COURT TO DETERMINE IF BOND SHOULD BE REVOKED; TO AMEND SECTION 16‑25‑20, AS AMENDED, RELATING TO DOMESTIC VIOLENCE OFFENSES, SO AS TO AUTHORIZE A JUDGE TO PROCEED WITH THE PROSECUTION OF A DOMESTIC VIOLENCE OFFENSE WITHOUT THE VICTIM PRESENT AND TO REQUIRE A JUDGE TO MAKE CERTAIN INQUIRIES AND WRITTEN FINDINGS REGARDING WHETHER THE PROSECUTION IS READY TO PROCEED AND THE TYPE OF EVIDENCE THE PROSECUTION IS PREPARED TO PRESENT; TO AMEND SECTION 16‑25‑70, AS AMENDED, RELATING TO WARRANTLESS ARREST OR SEARCH FOR A DOMESTIC VIOLENCE OFFENSE, SO AS TO REQUIRE THAT THE MANDATED LAW ENFORCEMENT INVESTIGATION OF A DOMESTIC VIOLENCE OFFENSE MUST BE DOCUMENTED ON AN INCIDENT REPORT FORM WHICH MUST BE MAINTAINED BY THE INVESTIGATING AGENCY; TO DIRECT THE DEPARTMENT OF SOCIAL SERVICES IN CONSULTATION WITH THE SOUTH CAROLINA VOUCHER PROGRAM TO PROVIDE CERTAIN CHILDCARE SERVICES TO VICTIMS OF DOMESTIC VIOLENCE TO ENCOURAGE PARTICIPATION IN COURT HEARINGS RELATING TO DOMESTIC VIOLENCE; TO AMEND SECTION 17‑22‑90, RELATING TO PRETRIAL INTERVENTION PROGRAMS, SO AS TO REQUIRE THE DOMESTIC VIOLENCE FATALITY ADVISORY COMMITTEE TO DEVELOP AND THE ATTORNEY GENERAL TO APPROVE A BATTERER’S TREATMENT PROGRAM FOR USE AS PART OF PRETRIAL INTERVENTION FOR CERTAIN DOMESTIC VIOLENCE OFFENSES AND TO ALLOW THE COURT TO DESIGNATE A SPECIFIC BATTERER’S TREATMENT PROGRAM; BY ADDING ARTICLE 3 TO CHAPTER 25, TITLE 16 SO AS TO CREATE THE DEPARTMENT OF DOMESTIC VIOLENCE FATALITIES OF THE OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA WHOSE PURPOSE IS TO INVESTIGATE FATALITIES RESULTING FROM DOMESTIC VIOLENCE, TO REQUIRE THE ATTORNEY GENERAL TO OVERSEE THESE INVESTIGATIONS AND THE OVERALL OPERATION OF THE DEPARTMENT, AND TO PROVIDE FOR THE DEPARTMENT’S DUTIES AND POWERS; TO CREATE THE DOMESTIC VIOLENCE FATALITY ADVISORY COMMITTEE WHOSE PURPOSE IS TO DECREASE FATALITIES RESULTING FROM DOMESTIC VIOLENCE AND TO PROVIDE FOR THE COMMITTEE’S MEMBERSHIP, DUTIES, AND POWERS; AND TO EXEMPT CERTAIN MEETINGS AND INFORMATION FROM THE APPLICABILITY OF THE FREEDOM OF INFORMATION ACT AND PROVIDE FOR CONFIDENTIALITY OF CERTAIN INFORMATION RELATED TO THE INVESTIGATION AND REVIEW OF INCIDENCES OF DOMESTIC VIOLENCE BY THE DEPARTMENT AND COMMITTEE; BY ADDING ARTICLE 5 TO CHAPTER 25, TITLE 16 SO AS TO RECODIFY THE PROVISIONS OF SECTION 43‑1‑260, RELATING TO COMMUNITY DOMESTIC VIOLENCE COORDINATING COUNCILS, WITHIN ARTICLE 5; TO REPEAL SECTION 43‑1‑260 RELATING TO COMMUNITY DOMESTIC VIOLENCE COORDINATING COUNCILS; TO AMEND SECTION 59‑32‑30, AS AMENDED, RELATING TO SUBJECTS TAUGHT IN THE COMPREHENSIVE HEALTH EDUCATION PROGRAM, SO AS TO ADD THE SUBJECT OF DOMESTIC VIOLENCE BEGINNING WITH THE 2016‑2017 SCHOOL YEAR; AND TO STRIKE THE WORD “CRIMINAL” FROM REFERENCES TO CRIMINAL DOMESTIC VIOLENCE OFFENSES THROUGHOUT AS APPROPRIATE.

Whereas, the General Assembly finds, in terms of domestic violence offenses, that it would be appropriate and wise to consider the term “shelter” not only as a noun, but as a verb as well, so that survivors of domestic violence may be sheltered and receive the necessary tools to survive and thrive; and

Whereas, the General Assembly desires to remove impediments to a domestic violence survivor receiving the necessary tools to survive and thrive and supports survivor participation in the abuser’s prosecution if the survivor so chooses; and

Whereas, the General Assembly recognizes that not all prosecutions will include participation of the domestic violence survivor, but this lack of participation does not necessarily undermine the seriousness of the offense or the validity of the case; and

Whereas, the General Assembly recognizes that community and governmental agencies must study incidences of domestic violence thoroughly to reduce and eliminate domestic violence; and

Whereas, the General Assembly recognizes that a domestic violence fatality advisory committee comprised of members who have expertise in and knowledge of domestic violence issues will benefit communities and the State of South Carolina greatly and strengthen the state’s laws, policies, and practices relating to domestic violence and to batterer treatment programs; and

Whereas, the General Assembly recognizes local governments also should learn best practices relating to reducing and eliminating domestic violence through community domestic violence coordinating councils; and

Whereas, the General Assembly recognizes the education received by law enforcement from the Criminal Justice Academy. The General Assembly finds that education is a key component to assisting survivors. The General Assembly recommends the continued education and awareness by law enforcement of the multifaceted issues related to domestic violence; and

Whereas, the General Assembly recognizes the education of the judiciary by Court Administration through section 16‑25‑100 of the South Carolina Code. The General Assembly finds that education is a key component to achieving justice. The General Assembly recommends the continued education and awareness by the judiciary of the multifaceted issues related to domestic violence; and

Whereas, the General Assembly finds education of the community is vital to addressing domestic violence. This education begins with our youngest community members who may witness domestic violence and be endangered themselves. This education and awareness is also key in the adult communities, such as the work place and communities of faith. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

PART I

Citation

SECTION 1. This act may be cited as the “Domestic Violence Reform Act”.

Part II

Domestic Violence Penalties

SECTION 2. Section 16‑25‑10 of the 1976 Code, as last amended by Act 166 of 2005, is further amended to read:

“Section 16‑25‑10. As used in this article, the term:

(1) ‘Deadly weapon’ means any pistol, dirk, slingshot, metal knuckles, razor, or other instrument which can be used to inflict deadly force.

(2) ‘Great bodily injury’ means an injury as defined in Section 16‑3‑600(A)(1).

(3) ‘Household member’ means:

~~(1)~~(a) a spouse;

~~(2)~~(b) a former spouse;

~~(3)~~(c) persons who have a child in common; or

~~(4)~~(d) a male and female who are cohabiting or formerly have cohabited.

(4) ‘Moderate bodily injury’ means an injury as defined in Section 16‑3‑600(A)(2).

(5) ‘Prior conviction of domestic violence’ includes conviction of any crime, in any state, containing among its elements those enumerated in, or substantially similar to those enumerated in, Section 16‑25‑20(A) that is committed against a household member as defined in item (3) within the ten years prior to the incident date of the current offense***.***

(6) ‘Protection order’ means any order of protection, restraining order, condition of bond, or any other similar order issued in this State or another state or foreign jurisdiction for the purpose of protecting a household member.”

SECTION 3. Section 16‑25‑20 of the 1976 Code, as last amended by Act 255 of 2008, is further amended to read:

“Section 16‑25‑20. (A) It is unlawful to:

(1) cause physical harm or injury to a person’s own household member; or

(2) offer or attempt to cause physical harm or injury to a person’s own household member with apparent present ability under circumstances reasonably creating fear of imminent peril.

(B) Except as otherwise provided in this section, a person ~~who violates the provisions of subsection (A) is guilty of~~ commits the offense of ~~criminal~~ domestic violence ~~and, upon conviction, must be punished as follows~~ in the first degree if the person violates the provisions of subsection (A) and:

(1) ~~for a first offense, the person is guilty of a misdemeanor and must be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned not more than thirty days. The court may suspend the imposition or execution of all or part of the fine conditioned upon the offender completing, to the satisfaction of the court, and in accordance with the provisions of Section 16‑25‑20(H), a program designed to treat batterers. Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, an offense pursuant to the provisions of this subsection must be tried in summary court~~ great bodily injury to the person’s own household member results or the person offered or attempted to injure the person’s own household member with the present ability to do so and a reasonable person could assume great bodily injury could result;

(2) ~~for a second offense, the person is guilty of a misdemeanor and must be fined not less than two thousand five hundred dollars nor more than five thousand dollars and imprisoned not less than a mandatory minimum of thirty days nor more than one year. The court may suspend the imposition or execution of all or part of the sentence, except the thirty‑day mandatory minimum sentence, conditioned upon the offender completing, to the satisfaction of the court, and in accordance with the provisions of Section 16‑25‑20(H), a program designed to treat batterers. If a person is sentenced to a mandatory minimum of thirty days pursuant to the provisions of this subsection, the judge may provide that the sentence be served two days during the week or on weekends until the sentence is completed and is eligible for early release based on credits he is able to earn during the service of his sentence, including, but not limited to, good‑time credits~~; the person violates a protection order and in the process of violating the order commits domestic violence in the second degree;

(3) f~~or a third or subsequent offense, the person is guilty of a felony and must be imprisoned not less than a mandatory minimum of one year but not more than five years.~~ has two or more prior convictions of domestic violence within ten years of the current offense; or

(4) in the process of committing domestic violence in the second degree one of the following also results:

(a) the offense is committed in the presence of, or while being perceived by a minor;

(b) the offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;

(c) the offense is committed during the commission of a robbery, burglary, kidnapping, or theft;

(d) the offense is committed by impeding the victim’s breathing or air flow; or

(e) the offense is committed using physical force or the threatened use of force against another to block that person’s access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(i) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(ii) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

A person who violates this subsection is guilty of a felony, and upon conviction must be imprisoned for not more than ten years.

Domestic violence in the first degree is a lesser included offense of domestic violence of a high and aggravated nature, as defined in Section 16‑25‑65.

(C) ~~For the purposes of subsections (A) and (B), a conviction within the previous ten years for a violation of subsection (A), Section 16‑25‑65, or a criminal domestic violence offense in another state which includes similar elements to the provisions of subsection (A) or Section 16‑25‑65, constitutes a prior offense. A conviction for a violation of a criminal domestic violence offense in another state does not constitute a prior offense if the offense is committed against a person other than a “household member” as defined in Section 16‑25‑10.~~

~~(D)~~ ~~A person who violates the terms and conditions of an order of protection issued in this State under Chapter 4, Title 20, the ‘Protection from Domestic Abuse Act’, or a valid protection order related to domestic or family violence issued by a court of another state, tribe, or territory is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days and fined not more than five hundred dollars~~  A person commits the offense of domestic violence in the second degree if the person violates subsection (A) and:

(1) moderate bodily injury to their own household member results or moderate bodily injury to their own household member could have resulted; or

(2) the person violates a protection order and in the process of violating the order commits domestic violence in the third degree; or

(3) the person has one prior conviction for domestic violence in the past ten years from the current offense; or

(4) in the process of committing domestic violence in the third degree one of the following also results:

(a) the offense is committed in the presence of, or while being perceived by, a minor;

(b) the offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;

(c) the offense is committed during the commission of a robbery, burglary, kidnapping, or theft;

(d) the offense is committed by impeding the victim’s breathing or air flow; or

(e) the offense is committed using physical force or the threatened use of force against another to block that person’s access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(i) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(ii) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand five hundred dollars nor more than five thousand dollars or imprisoned for not more than three years, or both.

Domestic violence in the second degree is a lesser‑included offense of domestic violence in the first degree, as defined in subsection (A), and domestic violence of a high and aggravated nature, as defined in Section 16‑25‑65.

~~(E)~~(D) ~~Unless the complaint is voluntarily dismissed or the charge is dropped prior to the scheduled trial date, a person charged with a violation provided in this chapter must appear before a judge for disposition of the case~~ A person commits the offense of domestic violence in the third degree if the person violates subsection (A).

(1) A person who violates this subsection is guilty of a misdemeanor and must be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned not more than thirty days, or both.

(2) ~~The court may suspend the imposition or execution of all or part of the fine conditioned upon the offender completing, to the satisfaction of the court, and, in addition, the court, in accordance with the provisions of Section 16‑25‑20(G), a program designed to treat batters.~~ Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, and 22‑3‑550, an offense pursuant to the provisions of this subsection must be tried in summary court unless Section 22-3-546 applies.

(3) Domestic violence in the third degree is a lesser‑included offense of domestic violence in the second degree, as defined in subsection (C), domestic violence in the first degree, as defined in subsection (A), and domestic violence of a high and aggravated nature, as defined in Section 16‑25‑65.

~~(F)~~(E) When a person is convicted of a violation of this section or Section 16‑25‑65 ~~or sentenced pursuant to subsection (C)~~, the court may suspend execution of all or part of the sentence, except for the mandatory minimum sentence, and for violations of subsections (B) or (C) or Section 16‑25‑65, place the offender on probation, conditioned upon:

(1) the ~~offender completing~~ offender’s mandatory completion, to the satisfaction of the court, ~~a~~ of a domestic violence intervention program designed to treat batterers in accordance with the provisions of subsection (G);

(2) fulfillment of all the obligations arising under court order pursuant to this section and Section 16‑25‑65; ~~and~~

(3) other reasonable terms and conditions of probation as the court may determine necessary to ensure the protection of the victim; and

(4) making restitution as the court deems appropriate.

~~(G)~~(F) In determining whether or not to suspend the imposition or execution of all or part of a sentence as provided in this section, the court must consider the nature and severity of the offense, the number of times the offender has repeated the offense, and the best interests and safety of the victim.

~~(H)~~(G) An offender who participates in a ~~batterer treatment~~ domestic violence intervention program pursuant to this section, ~~must~~ shall participate in a program offered through a government agency, nonprofit organization, or private provider approved by the ~~Department of Social Services~~ Office of the Attorney General. The offender ~~must~~ shall pay a reasonable fee for participation in the ~~treatment~~ program but no person may be denied ~~treatment~~ participation due to inability to pay. If the offender suffers from a substance abuse problem or mental health concern, the judge may order, or the ~~batterer treatment~~ program may refer, the offender to supplemental treatment coordinated through the Department of Alcohol and Other Drug Abuse Services with the local alcohol and drug treatment authorities pursuant to Section 61‑12‑20 or the Department of Mental Health or Veterans’ Hospital, respectively. The offender must pay a reasonable fee for participation in the substance abuse treatment or mental health program, if required, but no person may be denied ~~treatment~~ participation due to inability to pay.

(H) A person who violates the terms and conditions of an order of protection issued in this State pursuant to Chapter 4, Title 20, the ‘Protection from Domestic Abuse Act’, or a valid protection order related to domestic or family violence issued by a court of another state, tribe, or territory is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days and fined not more than five hundred dollars.

(I) Unless the complaint is voluntarily dismissed or the charge is dropped prior to the scheduled trial date, a person charged with a violation provided in this chapter must appear before a judge for disposition of the case.”

SECTION 4. Section 16‑25‑65 of the 1976 Code, as last amended by Act 166 of 2005, is further amended to read:

“Section 16‑25‑65. (A) A person who violates Section 16‑25‑20(A) is guilty of the offense of ~~criminal~~ domestic violence of a high and aggravated nature when one of the following occurs. The person ~~commits~~:

(1) ~~an assault and battery which involves the use of a deadly weapon or results in serious bodily injury to the victim~~ commits the offense under circumstances manifesting extreme indifference to the value of human life and great bodily injury to the victim results; ~~or~~

(2) ~~an assault, with or without an accompanying battery, which would reasonably cause a person to fear imminent serious bodily injury or death.~~ commits the offense, with or without an accompanying battery and under circumstances manifesting extreme indifference to the value of human life, and would reasonably cause a person to fear imminent great bodily injury or death; or

(3) violates a protection order and, in the process of violating the order, commits domestic violence in the first degree.

(B) A person who violates subsection (A) is guilty of a felony and, upon conviction, must be imprisoned ~~not less than a mandatory minimum of one year nor more than ten years. The court may suspend the imposition or execution of all or part of the sentence, except the one‑year mandatory minimum sentence, and place the offender on probation conditioned upon the offender completing, to the satisfaction of the court, a program designed to treat batterers offered through a government agency, nonprofit organization, or private provider approved by the Department of Social Services. The offender must pay a reasonable fee for participation in the treatment program, but no person may be denied treatment due to inability to pay. If the offender suffers from a substance abuse problem, the judge may order, or the batterer treatment program may refer, the offender to supplemental treatment coordinated through the Department of Alcohol and Other Drug Abuse Services with the local alcohol and drug treatment authorities pursuant to Section 61‑12‑20. The offender must pay a reasonable fee for participation in the substance abuse treatment program, but no person may be denied treatment due to inability to pay~~ for not more than twenty years.

(C) The provisions of subsection (A) create a statutory offense of ~~criminal~~ domestic violence of a high and aggravated nature and must not be construed to codify the common law crime of assault and battery of a high and aggravated nature.

(D) Circumstances manifesting extreme indifference to the value of human life include, but are not limited to, the following:

(1) using a deadly weapon;

(2) knowingly impeding the normal breathing or circulation of the blood of a household member by applying pressure to the throat or neck or by obstructing the nose or mouth of a household member;

(3) committing the offense in the presence of a minor;

(4) committing the offense against a person he knew, or should have known, to be pregnant;

(5) committing the offense during the commission of a robbery, burglary, kidnapping, or theft; or

(6) using physical force against another to block that person’s access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(a) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(b) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

(E) Notwithstanding any other provision of law, the judge may provide, as a condition of bond, that an offender who violates the provisions of this section may not ship, transport, possess, or receive a firearm or ammunition while the offender is under bond.”

SECTION 5. Section 16‑1‑60 of the 1976 Code, as last amended by Act 255 of 2012, is further amended to read:

“Section 16‑1‑60. For purposes of definition under South Carolina law, a violent crime includes the offenses of: murder (Section 16‑3‑10); attempted murder (Section 16‑3‑29); assault and battery by mob, first degree, resulting in death (Section 16‑3‑210(B)), criminal sexual conduct in the first and second degree (Sections 16‑3‑652 and 16‑3‑653); criminal sexual conduct with minors, first, second, and third degree (Section 16‑3‑655); assault with intent to commit criminal sexual conduct, first and second degree (Section 16‑3‑656); assault and battery with intent to kill (Section 16‑3‑620); assault and battery of a high and aggravated nature (Section 16‑3‑600(B)); kidnapping (Section 16‑3‑910); trafficking in persons (Section 16‑3‑930); voluntary manslaughter (Section 16‑3‑50); armed robbery (Section 16‑11‑330(A)); attempted armed robbery (Section 16‑11‑330(B)); carjacking (Section 16‑3‑1075); drug trafficking as defined in Section 44‑53‑370(e) or trafficking cocaine base as defined in Section 44‑53‑375(C); manufacturing or trafficking methamphetamine as defined in Section 44‑53‑375; arson in the first degree (Section 16‑11‑110(A)); arson in the second degree (Section 16‑11‑110(B)); burglary in the first degree (Section 16‑11‑311); burglary in the second degree (Section 16‑11‑312(B)); engaging a child for a sexual performance (Section 16‑3‑810); homicide by child abuse (Section 16‑3‑85(A)(1)); aiding and abetting homicide by child abuse (Section 16‑3‑85(A)(2)); inflicting great bodily injury upon a child (Section 16‑3‑95(A)); allowing great bodily injury to be inflicted upon a child (Section 16‑3‑95(B)); ~~criminal~~ domestic violence of a high and aggravated nature (Section 16‑25‑65); domestic violence in the first degree (Section 16‑25‑20(B)); abuse or neglect of a vulnerable adult resulting in death (Section 43‑35‑85(F)); abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43‑35‑85(E)); taking of a hostage by an inmate (Section 24‑13‑450); detonating a destructive device upon the capitol grounds resulting in death with malice (Section 10‑11‑325(B)(1)); spousal sexual battery (Section 16‑3‑615); producing, directing, or promoting sexual performance by a child (Section 16‑3‑820); sexual exploitation of a minor first degree (Section 16‑15‑395); sexual exploitation of a minor second degree (Section 16‑15‑405); promoting prostitution of a minor (Section 16‑15‑415); participating in prostitution of a minor (Section 16‑15‑425); aggravated voyeurism (Section 16‑17‑470(C)); detonating a destructive device resulting in death with malice (Section 16‑23‑720(A)(1)); detonating a destructive device resulting in death without malice (Section 16‑23‑720(A)(2)); boating under the influence resulting in death (Section 50‑21‑113(A)(2)); vessel operator’s failure to render assistance resulting in death (Section 50‑21‑130(A)(3)); damaging an airport facility or removing equipment resulting in death (Section 55‑1‑30(3)); failure to stop when signaled by a law enforcement vehicle resulting in death (Section 56‑5‑750(C)(2)); interference with traffic‑control devices, railroad signs, or signals resulting in death (Section 56‑5‑1030(B)(3)); hit and run resulting in death (Section 56‑5‑1210(A)(3)); felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (Section 56‑5‑2945(A)(2)); putting destructive or injurious materials on a highway resulting in death (Section 57‑7‑20(D)); obstruction of a railroad resulting in death (Section 58‑17‑4090); accessory before the fact to commit any of the above offenses (Section 16‑1‑40); and attempt to commit any of the above offenses (Section 16‑1‑80). Only those offenses specifically enumerated in this section are considered violent offenses.”

SECTION 6. Section 17‑25‑45(C)(2) of the 1976 Code is amended to read:

“(2) ‘Serious offense’ means:

(a) any offense which is punishable by a maximum term of imprisonment for thirty years or more which is not referenced in subsection (C)(1);

(b) those felonies enumerated as follows:

16‑3‑220 Lynching, Second degree

16‑3‑210(C) Assault and battery by mob, Second degree

16‑3‑600(B) Assault and battery of a high and aggravated nature

16‑3‑810 Engaging child for sexual performance

16‑9‑220 Acceptance of bribes by officers

16‑9‑290 Accepting bribes for purpose of procuring public office

16‑11‑110(B) Arson, Second degree

16‑11‑312(B) Burglary, Second degree

16‑11‑380(B) Theft of a person using an automated teller machine

16‑13‑210(1) Embezzlement of public funds

16‑13‑230(B)(3) Breach of trust with fraudulent intent

16‑13‑240(1) Obtaining signature or property by false pretenses

16‑25‑20(B) Domestic violence, First degree

16‑25‑65 Domestic violence of a high and aggravated nature

38‑55‑540(3) Insurance fraud

44‑53‑370(e) Trafficking in controlled substances

44‑53‑375(C) Trafficking in ice, crank, or crack cocaine

44‑53‑445(B)(1)&(2) Distribute, sell, manufacture, or possess with intent to distribute controlled substances within proximity of school

56‑5‑2945 Causing death by operating vehicle while under influence of drugs or alcohol; and

(c) the offenses enumerated below:

16‑1‑40 Accessory before the fact for any of the offenses listed in subitems (a) and (b)

16‑1‑80 Attempt to commit any of the offenses listed in subitems (a) and (b)

43‑35‑85(E) Abuse or neglect of a vulnerable adult resulting in great bodily injury.”

SECTION 7. Section 16‑3‑600(A)(2) f the 1976 Code is amended to read:

“(2) ‘Moderate bodily injury’ means physical injury ~~requiring treatment to an organ system of the body other than the skin, muscles, and connective tissues of the body, except when there is penetration of the skin, muscles, and connective tissues that require surgical repair of a complex nature or when treatment of the injuries requires the use of regional or general anesthesia~~ that involves loss of consciousness, or that requires moderate medical treatment but does not cause serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.”

SECTION 8. Section 22-3-546 of the 1976 Code, as added by Act 366 of 2006, is amended to read:

“Section 22-3-546. A circuit solicitor~~, in a circuit with five or more counties,~~ may establish a program under his discretion and control, to prosecute ~~first offense~~ misdemeanor ~~criminal~~ domestic violence offenses, as defined in Section 16‑25‑20, in general sessions court. Whether to establish a program, and which cases may be prosecuted in general sessions court, are within the sole discretion of the solicitor. A solicitor shall report the results of the program to the Prosecution Coordination Commission.”

Part III

Bond Reform

SECTION 9. Section 22‑5‑530 of the 1976 Code, as last amended by Act 144 of 2014, is further amended to read:

“Section 22‑5‑530. (A) A person charged and to be tried before a magistrate or municipal judge for a violation of law is entitled to deposit with the magistrate or municipal judge, in lieu of entering into recognizance, a sum of money not to exceed the maximum fine in the case for which the person is to be tried. However, ~~an individualized hearing must be held when the person is charged with a violation of the provisions of Chapter 25, Title 16 and the victim of the offense must be notified pursuant to the provisions of Section 16‑3‑1525(H)~~ the provisions of this section do not apply to a person charged with a violation of the provisions of Chapter 25, Title 16, and such person is expressly prohibited from making a deposit in lieu of recognizance.

(B) In a jurisdiction in which the governing body has established a system for receipt of deposits in lieu of recognizance:

(1) a person held or incarcerated in a jail or detention center who is entitled to deposit a sum of money in lieu of entering into recognizance pursuant to this section may secure the person’s immediate release from custody by paying to or depositing the sum of money required by this section with the jail or detention facility in which the person is being held; and

(2) a person held or incarcerated in a jail or detention center whose bond has been set by a summary court judge may secure the person’s immediate release from custody by paying to or depositing the sum of money set by the summary court judge with the jail or detention facility in which the person is being held.

(C) Money paid to or deposited with a jail or detention facility under the authority of this section is considered paid to or deposited with the magistrate or municipal judge in lieu of entering into recognizance and must be accounted for and paid over to the magistrate or municipal judge by the jail or detention facility for disposition ~~according to law~~ as provided by law. Money paid to or deposited pursuant to this section must be accounted for and audited in the manner required by the governing body and any other appropriate agency.

(D) The provisions of this section must not be construed to abrogate or otherwise affect the notice requirements for victims of crime and other rights of victims of crime provided for in Article ~~5~~15 ~~of~~, Chapter 3, Title 16.”

SECTION 10. Section 17‑15‑30 of the 1976 Code, as last amended by Act 144 of 2014, is further amended to read:

“Section 17‑15‑30. (A) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court may, on the basis of the following information, consider the nature and circumstances of an offense charged and the charged person’s:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(B) A court shall consider:

(1) a person’s criminal record;

(2) any charges pending against a person at the time release is requested;

(3) all incident reports generated as a result of an offense charged;

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division.

(C)(1) Prior to or at the time of a hearing, the arresting law enforcement agency shall provide the court with the following information:

(a) a person’s criminal record;

(b) any charges pending against a person at the time release is requested;

(c) all incident reports generated as a result of the offense charged; and

(d) any other information that will assist the court in determining conditions of release.

(2) The arresting law enforcement agency shall inform the court if any of the information is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person’s hearing. Notwithstanding the provisions of this item, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person’s criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty‑four hours after the arrest.

(D) A court hearing these matters has contempt powers to enforce the provisions of this section.

(E) Failure of a party to adhere to a condition of the bond may result in the issuance of a bench warrant for contempt.”

SECTION 11. Section 22‑5‑510 of the 1976 Code, as last amended by Act 144 of 2014, is further amended to read:

“Section 22‑5‑510. (A) Magistrates may admit to bail a person charged with an offense, the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses as defined by the General Assembly pursuant to Section 15, Article I of the Constitution of South Carolina, 1895, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event, including, but not limited to, any charges pending against the person requesting bail. ‘Violent offenses’ as used in this section means the offenses contained in Section 16‑1‑60. If a person under lawful arrest on a charge not bailable is brought before a magistrate, the magistrate shall commit the person to jail. If the offense charged is bailable, the magistrate shall take recognizance with sufficient surety, if it is offered, in default whereof the person must be incarcerated.

(B) A person charged with a bailable offense must have a bond hearing within twenty‑four hours of his arrest and must be released within a reasonable time, not to exceed four hours, after the bond is delivered to the incarcerating facility.

(C) In determining conditions of release that will reasonably assure appearance, or if release would constitute an unreasonable danger to the community or an individual, a court, on the basis of the following information, may consider the nature and circumstances of an offense charged and the charged person’s:

(1) family ties;

(2) employment;

(3) financial resources;

(4) character and mental condition;

(5) length of residence in the community;

(6) record of convictions; and

(7) record of flight to avoid prosecution or failure to appear at other court proceedings.

(D) A court shall consider:

(1) a person’s criminal record;

(2) any charges pending against a person at the time release is requested;

(3) all incident reports generated as a result of an offense charged;

(4) whether a person is an alien unlawfully present in the United States, and poses a substantial flight risk due to this status; and

(5) whether the charged person appears in the state gang database maintained at the State Law Enforcement Division.

(E) Prior to or at the time of the bond hearing, the arresting law enforcement agency shall provide the court with the following information:

(1) the person’s criminal record;

(2) any charges pending against the person at the time release is requested;

(3) all incident reports generated as a result of the offense charged; and

(4) any other information that will assist the court in determining conditions of release.

(F) The arresting law enforcement agency shall inform the court if any of the information required in subsections (C), (D), and (E) is not available at the time of the hearing and the reason the information is not available. Failure on the part of the law enforcement agency to provide the court with the information does not constitute grounds for the postponement or delay of the person’s bond hearing. Notwithstanding the provisions of this subsection, when a person is charged with a violation of Chapter 25, Title 16, the bond hearing may not proceed without the person’s criminal record and incident report or the presence of the arresting officer. The bond hearing for a violation of Chapter 25, Title 16 must occur within twenty‑four hours after the arrest.

(G) A court hearing this matter has contempt powers to enforce these provisions.

(H) Failure of a party to adhere to a condition of the bond may result in the issuance of a bench warrant for contempt.”

SECTION 12. Section 17‑15‑10 of the 1976 Code is amended to read:

“Section 17‑15‑10. (A) ~~Any~~ A person charged with a noncapital offense triable in either the magistrates, county or circuit court, shall, at his appearance before any of such courts, be ordered released pending trial on his own recognizance without surety in an amount specified by the court, unless the court determines in its discretion that such a release will not reasonably assure the appearance of the person as required, or unreasonable danger to the community or an individual will result. If such a determination is made by the court, it may impose any one or more of the following conditions of release:

(1) require the execution of an appearance bond in a specified amount with good and sufficient surety or sureties approved by the court;

(2) place the person in the custody of a designated person or organization agreeing to supervise him;

(3) place restrictions on the travel, association, or place of abode of the person during the period of release;

(4) impose any other conditions deemed reasonably necessary to assure appearance as required, including a condition that the person return to custody after specified hours.

(B) ~~Any~~ A person charged with the offense of burglary in the first degree pursuant to Section 16‑11‑311 may have his bond hearing for that charge in summary court unless the solicitor objects.”

SECTION 13. Section 16‑25‑120 (A) and (B) of the 1976 Code are amended to read:

“(A) In addition to the provisions of Section 17‑15‑30, the court ~~may~~ must consider the factors provided in subsection (B) when considering release of a person on bond who is charged with a violent offense, as defined in Section 16‑1‑60, when the victim of the offense is a household member, as defined in Section 16‑25‑10, and the person:

(1) is subject to the terms of a valid order of protection or restraining order at the time of the offense in this State or another state; or

(2) has a previous conviction involving the violation of a valid order of protection or restraining order in this State or another state.

(B) The court ~~may~~ must consider the following factors before release of a person on bond who is subject to the provisions of subsection (A):

(1) whether the person has a history of ~~criminal~~ domestic violence, as defined in this article, or a history of other violent offenses, as defined in Section 16‑1‑60;

(2) the mental health of the person;

(3) whether the person has a history of violating the orders of a court or other governmental agency; and

(4) whether the person poses a potential threat to another person.”

SECTION 14. Section 17-15-50 of the 1976 Code is amended to read:

“Section 17-15-50. The court with jurisdiction of the offense may, at any time after notice and hearing, amend the order to impose additional or different conditions of release.”

SECTION 15. Section 17‑15‑55 of the 1976 Code, as last amended by Act 144 of 2014, is further amended by adding an appropriately lettered subsection at the end to read:

“( ) For the purpose of bond revocation only, a summary court has concurrent jurisdiction with the circuit court for ten days from the date bond is first set on a charge by the summary court to determine if bond should be revoked.”

Part IV

Social Policy

SECTION 16. Section 16‑25‑20(E) of the 1976 Code, as last amended by Act 255 of 2008, is further amended to read:

“(E) Unless the complaint is voluntarily dismissed or the charge is dropped prior to the scheduled trial date, a person charged with a violation provided in this chapter must appear before a judge for disposition of the case. However, a judge may proceed with the prosecution of the case without the victim present. Before dismissing a case brought for a violation of a provision of this chapter, the judge shall inquire and make written findings as to whether the prosecution is ready to proceed with the trial of the case and the type of evidence including, but not limited to, physical, testimonial, or documentary evidence the prosecution is prepared to present.”

SECTION 17. Section 16‑25‑70(A) of the 1976 Code, as last amended by Act 319 of 2008, is further amended to read:

“(A) A law enforcement officer may arrest, with or without a warrant, a person at the person’s place of residence or elsewhere if the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony pursuant to the provisions of Section 16‑25‑20(A) or (D), 16‑25‑65, or 16‑25‑125, even if the act did not take place in the presence of the officer. The officer may, if necessary, verify the existence of probable cause related to a violation pursuant to the provisions of this chapter by telephone or radio communication with the appropriate law enforcement agency. A law enforcement agency must complete an investigation of an alleged violation of this chapter even if the law enforcement agency was not notified at the time the alleged violation occurred. The investigation must be documented on an incident report form which must be maintained by the investigating agency. If an arrest warrant is sought, the law enforcement agency must present the results of the investigation and any other relevant evidence to a magistrate who may issue an arrest warrant if probable cause is established.”

SECTION 18. The Department of Social Services in consultation with the South Carolina Voucher Program is directed to study current regulations and policies to ensure a domestic violence survivor may apply for childcare and receive childcare services while living in a traditional shelter or while sheltering in the home. The availability of such childcare must be designed to assist the survivor in receiving necessary services related to the care of the child in order to encourage participation in relevant court hearings if the survivor so chooses. The Department of Social Services and the South Carolina Voucher Program shall review relevant regulations as provided in this SECTION and report to the General Assembly by January 1, 2016, on whether current regulations are sufficient to meet the requirements of this SECTION or new regulations must be submitted to the General Assembly.

SECTION 19. Section 17‑22‑90(7) of the 1976 Code is amended to read:

“(7) if the offense is first offense ~~criminal~~ domestic violence pursuant to Section 16‑25‑20, agree in writing to successful completion of a batterer’s treatment program developed by the Domestic Violence Fatality Advisory Committee and approved by the ~~Department of Social Services~~ Office of the Attorney General. When referring a person to a batterer’s treatment program, a court may designate a program to be used based on the court’s experience with the program regarding successful completion of the program and the level of appropriate communication between the program and the court regarding a person’s attendance.”

SECTION 20. Chapter 25, Title 16 of the 1976 Code is amended by adding:

“Article 3

Department of Domestic Violence Fatalities and

Domestic Violence Fatality Advisory Committee

Section 16‑25‑310. For purposes of this article:

(1) ‘Committee’ means the Domestic Violence Fatality Advisory Committee.

(2) ‘Department’ means the Department of Domestic Violence Fatalities of the Office of the Attorney General of South Carolina.

(3) ‘Household member’ means a household member as defined in Section 16‑25‑10.

(4) ‘Meeting’ means both in‑person meetings and meetings through telephone conferencing.

(5) ‘Provider of medical care’ means a licensed health care practitioner who provides, or a licensed health care facility through which is provided, medical evaluation or treatment, including dental and mental health evaluation or treatment.

(6) ‘Working day’ means Monday through Friday, excluding official state holidays.

Section 16‑25‑320. There is created within the Office of the Attorney General of South Carolina the Department of Domestic Violence Fatalities, which operates under the supervision of the Attorney General.

Section 16‑25‑330. (A) There is created a multidisciplinary Domestic Violence Fatality Advisory Committee composed of:

(1) the Attorney General of the State of South Carolina, or a designee, who serves ex officio;

(2) the Director of the South Carolina Department of Social Services, or a designee, who serves ex officio;

(3) the Director of the South Carolina Department of Health and Environmental Control, or a designee, who serves ex officio;

(4) the Director of the South Carolina Criminal Justice Academy; or a designee, who serves ex officio;

(5) the Chief of the South Carolina Law Enforcement Division, or a designee, who serves ex officio;

(6) the Director of the South Carolina Department of Alcohol and Other Drug Abuse Services, or a designee, who serves ex officio;

(7) the Director of the South Carolina Department of Mental Health, or a designee, who serves ex officio;

(8) a county coroner or medical examiner, appointed by the Governor on the recommendation of the South Carolina Criminal Justice Academy, who serves ex officio;

(9) a solicitor, appointed by the Governor on the recommendation of the Attorney General, who serves ex officio;

(10) a forensic pathologist, appointed by the Governor on the recommendation of the South Carolina Society of Pathologists;

(11) a victim advocate, appointed by the Governor on the recommendation of the State Office of Victim Assistance of the Office of the Governor;

(12) a physician with experience in treating victims of domestic violence, appointed by the Governor on the recommendation of the South Carolina Medical Association; and

(13) two members of the public at large dedicated to the issue of domestic violence, appointed by the Governor.

(B)(1) If an individual enumerated in items (1) through (7) designates an employee to serve as the committee member, the designee must have administrative or program responsibilities for domestic violence.

(2) A member appointed by the Governor shall serve a term of four years and until a successor is appointed and qualifies.

(C) The members of the committee shall elect a chairman and vice chairman from among the membership by a majority vote. The chairman and vice chairman shall serve terms of two years.

(D) The committee shall hold meetings at least quarterly. A majority of the committee constitutes a quorum for the purpose of holding a meeting.

(E) Each ex officio member shall provide sufficient staff and administrative support to carry out the responsibilities of this article.

Section 16‑25‑340. (A) The purpose of the department is to expeditiously investigate domestic violence fatalities in all counties of the State.

(B) To achieve its purpose, the department shall:

(1) upon receipt of a report of a fatality from the county coroner or medical examiner that appears to have resulted from domestic violence, as required by Section 17‑5‑530, investigate and gather all information on the fatality. The coroner or medical examiner immediately shall request an autopsy if the Attorney General determines that an autopsy is necessary. The autopsy must be performed by a pathologist with forensic training as soon as possible. The pathologist shall inform the department of the findings within forty‑eight hours of completion of the autopsy. If the autopsy reveals the cause of death to be pathological or an unavoidable accident, the case must be closed by the department. If the autopsy reveals physical or sexual trauma, suspicious markings, or other findings that are questionable or yields no conclusion to the cause of death, the department immediately must begin an investigation;

(2) request assistance of any other local, county, or state agency to aid in the investigation;

(3) upon receipt of additional investigative information, reopen the department’s case, and request in writing as soon as possible for the coroner to reopen a case for another coroner’s inquest;

(4) upon receipt of the notification required by item (1), review law enforcement and other agency records for information regarding the deceased person, the alleged perpetrator, and the other household members. Information available to the department pursuant to Section 16‑25‑360 and information which is public under Chapter 4, Title 30, the Freedom of Information Act, must be available as needed to the county coroner or medical examiner;

(5) report the activities and findings related to a fatality under investigation as a fatality resulting from domestic violence to the Domestic Violence Fatality Advisory Committee;

(6) develop a protocol for domestic violence fatality reviews;

(7) develop a protocol for the collection of data regarding fatalities resulting from domestic violence and provide training to local professionals delivering services to victims of domestic violence, county coroners and medical examiners, and law enforcement agencies on the use of the protocol;

(8) study the operations of local investigations of domestic violence fatalities, including the statutes, regulations, policies, and procedures of the agencies involved with services to victims of domestic violence and investigations of fatalities appearing to have resulted from domestic violence;

(9) examine statutes, regulations, policies, and procedures regarding confidentiality of and access to information for agencies with responsibilities for perpetrators and victims of domestic violence including, but not limited to, health, public welfare, education, social services, mental health, alcohol and other substance abuse, and law enforcement agencies, determine whether any statute, regulation, policy, or procedure impedes the exchange of information necessary to protect a person from a death resulting from domestic violence, and notify the committee and the agencies serving on the committee of needed changes to statutes, regulations, policies, or procedures for inclusion in the committee’s annual report;

(10) develop a forensic pathology network available to coroners and medical examiners for prompt autopsy findings;

(11) submit to the Governor and the General Assembly an annual report and any other reports prepared by the department including, but not limited to, the department’s findings and recommendations; and

(12) promulgate regulations necessary to carry out its purposes and responsibilities under this article.

Section 16‑25‑350. (A) The purpose of the Domestic Violence Fatality Advisory Committee is to decrease the incidences of fatalities resulting from domestic violence by:

(1) developing an understanding of the causes and incidences of domestic violence fatalities;

(2) developing plans for and implementing changes within the agencies represented on the committee which will prevent domestic violence fatalities; and

(3) advising the Governor and the General Assembly on statutory, policy, and practice changes which will prevent domestic violence fatalities.

(B) To achieve its purpose, the committee shall:

(1) meet with the department no later than one month after the department receives notification by the county coroner or medical examiner pursuant to Section 17‑5‑530 to review the investigation of the fatality;

(2) undertake annual statistical studies of the incidences and causes of domestic violence fatalities in this State, including an analysis of community and public and private agency involvement with the decedents and their families before and subsequent to the fatalities;

(3) consider training, including cross‑agency training, consultation, technical assistance needs, and service gaps that would decrease the likelihood of domestic violence fatalities;

(4) determine the need for changes to any statute, regulation, policy, or procedure to decrease the incidences of domestic violence fatalities and include proposals for changes to statutes, regulations, policies, and procedures in the committee’s annual report;

(5) educate the public regarding the incidences and causes of domestic violence fatalities, specific steps the public can undertake to prevent domestic violence fatalities, and the support that civic, philanthropic, and public service organizations can provide in assisting the committee to educate the public;

(6) develop and implement policies and procedures for its own governance and operation; and

(7) submit to the Governor and the General Assembly a publicly available annual written report and any other reports prepared by the committee including, but not limited to, the committee’s findings and recommendations.

Section 16‑25‑360. Upon request of the department and as necessary to carry out the department’s purpose and duties, the department immediately must be provided:

(1) by a provider of medical care, access to information and records regarding a person whose death is being reviewed by the department pursuant to this article;

(2) access to all information and records maintained by any state, county, or local government agency including, but not limited to, birth certificates, law enforcement investigation data, county coroner or medical examiner investigation data, parole and probation information and records, and information and records of social services and health agencies that provided services to the victim, alleged perpetrator, and other household members.

Section 16‑25‑370. When necessary in the discharge of the duties of the department and upon application of the department, the clerks of court shall issue a subpoena or subpoena duces tecum to any state, county, or local agency, board, or commission or to a representative of any state, county, or local agency, board, or commission or to a provider of medical care to compel the attendance of witnesses and production of documents, books, papers, correspondence, memoranda, and other relevant records to the discharge of the department’s duties. Failure to obey a subpoena or subpoena duces tecum issued pursuant to this section may be punished as contempt.

Section 16‑25‑380. (A) Meetings of the committee and department are closed to the public and are not subject to Chapter 4, Title 30, the Freedom of Information Act, when the committee and department are discussing an individual case of a domestic violence fatality.

(B) Except as provided in subsection (C), meetings of the committee are open to the public and subject to the Freedom of Information Act when the committee is not discussing an individual case of a domestic violence fatality.

(C) Information identifying a deceased person or a household member, guardian, or caretaker of a deceased person, or an alleged or suspected perpetrator of domestic violence may not be disclosed during a public meeting, and information regarding the involvement of any agency with the deceased person, alleged perpetrator, and other household members may not be disclosed during a public meeting.

(D) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

Section 16‑25‑390. (A) All information and records acquired by the committee and by the department in the exercise of their purposes and duties pursuant to this article are confidential, exempt from disclosure under Chapter 4, Title 30, the Freedom of Information Act, and only may be disclosed as necessary to carry out the committee’s and department’s duties and purposes.

(B) Statistical compilations of data which do not contain information that would permit the identification of a person to be ascertained are public records.

(C) Reports of the committee and department which do not contain information that would permit the identification of a person to be ascertained are public information.

(D) Except as necessary to carry out the committee’s and department’s purposes and duties, members of the committee and department and persons attending their meeting may not disclose what transpired at a meeting which is not public under Section 16‑25‑380 and may not disclose information, the disclosure of which is prohibited by this section.

(E) Members of the committee, persons attending a committee meeting, and persons who present information to the committee may not be required to disclose in any civil or criminal proceeding information presented in or opinions formed as a result of a meeting, except that information available from other sources is not immune from introduction into evidence through those sources solely because it was presented during proceedings of the committee or department or because it is maintained by the committee or department. Nothing in this subsection prevents a person from testifying to information obtained independently of the committee or which is public information.

(F) Information, documents, and records of the committee and department are not subject to subpoena, discovery, or the Freedom of Information Act, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery, or the Freedom of Information Act through those sources solely because they were presented during proceedings of the committee or department or because they are maintained by the committee or department.

(G) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned for not more than six months, or both.”

SECTION 21. Chapter 25, Title 16 of the 1976 Code is amended by adding:

“Article 5

Community Domestic Violence Coordinating Councils

Section 16‑25‑510. The circuit solicitor shall facilitate the development of community domestic violence coordinating councils in each county or judicial circuit based upon public‑private sector collaboration.

Section 16‑25‑520. The purpose of a community domestic violence coordinating council is to:

(1) increase the awareness and understanding of domestic violence and its consequences;

(2) reduce the incidence of domestic violence in the county or area served; and

(3) enhance and ensure the safety of battered individuals and their children.

Section 16‑25‑530. The duties and responsibilities of a community domestic violence coordinating council include, but are not limited to:

(1) promoting effective strategies of intervention for identifying the existence of domestic violence and for intervention by public and private agencies;

(2) establishing interdisciplinary and interagency protocols for intervention with survivors of domestic violence;

(3) facilitating communication and cooperation among agencies and organizations that are responsible for addressing domestic violence;

(4) monitoring, evaluating, and improving the quality and effectiveness of domestic violence services and protections in the community;

(5) providing public education and prevention activities; and

(6) providing professional training and continuing education activities.

Section 16‑25‑540. Membership on a community domestic violence coordinating council may include, but is not limited to, representatives from magistrates court, family court, law enforcement, solicitor’s office, probation and parole, batterer intervention programs or services, nonprofit battered individual’s program advocates, counseling services for children, legal services, victim assistance programs, the medical profession, substance abuse counseling programs, the clergy, survivors of domestic violence, local department of social services, and the education community. Members on the council shall develop memoranda of agreement among and between themselves to ensure clarity of roles and responsibilities in providing services to victims of domestic violence.

Section 16‑25‑550. Each community domestic violence coordinating council is responsible for generating revenue for its operation and administration.”

SECTION 22. Section 59‑32‑30(A)(2) of the 1976 Code is amended to read:

“(2) Beginning with the ~~1988‑89~~ 1988‑1989 school year, for grades six through eight, instruction in comprehensive health must include the following subjects: community health, consumer health, environmental health, growth and development, nutritional health, personal health, prevention and control of diseases and disorders, safety and accident prevention, substance use and abuse, dental health, mental and emotional health, and reproductive health education. Sexually transmitted diseases are to be included as a part of instruction. At the discretion of the local board, instruction in family life education or pregnancy prevention education or both may be included, but instruction in these subjects may not include an explanation of the methods of contraception before the sixth grade. Beginning with the 2016‑2017 school year, for grades six through eight, instruction in comprehensive health education also must include the subject of domestic violence.”

SECTION 23. Section 43‑1‑260 of the 1976 Code is repealed.

Part V

Savings Clause and Effective Date

SECTION 24. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 25. This act takes effect upon approval by the Governor.

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